

**A. 22**

HIGHLY CONFIDENTIAL - D. PETRIE  
UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In Re:

Chapter 11  
LEHMAN BROTHERS Case No. 08-13555 (JMP)  
HOLDINGS, INC., et al., (Jointly Administered)

Debtors.  
-----X

\* \* \*HIGHLY CONFIDENTIAL\* \* \*

DEPOSITION OF DAVID PETRIE

New York, New York

August 26, 2009

Reported by:

KATHY S. KLEPFER, RMR, RPR, CRR, CLR

JOB NO. 24293

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<p>1           HIGHLY CONFIDENTIAL - D. PETRIE</p> <p>2               August 26, 2009</p> <p>3               9:29 a.m.</p> <p>4</p> <p>5           HIGHLY CONFIDENTIAL deposition</p> <p>6           of DAVID PETRIE, held at Jones Day</p> <p>7           LLP, 222 East 41st Street, New York</p> <p>8           New York, before Kathy S. Klepfer</p> <p>9           a Registered Professional Reporter</p> <p>10          Registered Merit Reporter, Certified</p> <p>11          Realtime Reporter, Certified Livenote</p> <p>12          Reporter, and Notary Public of the</p> <p>13          State of New York.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1           HIGHLY CONFIDENTIAL - D. PETRIE</p> <p>2</p> <p>3           A P P E A R A N C E S:</p> <p>4           JONES DAY, LLP</p> <p>5           Attorneys for Lehman Brothers, Inc.</p> <p>6               222 East 41st Street</p> <p>7               New York, New York 10017-6702</p> <p>8           BY: JAYANT W. TAMBE, ESQ.</p> <p>9           TERRY McMAHON, ESQ.</p> <p>10</p> <p>11          BOIES, SCHILLER &amp; FLEXNER, LLP</p> <p>12          Attorneys for Barclays and the Witness</p> <p>13               5301 Wisconsin Avenue, N.W.</p> <p>14               Washington, D C. 20015</p> <p>15          BY: JONATHAN M. SHAW, ESQ.</p> <p>16</p> <p>17          QUINN, EMANUEL, URQUHART, OLIVER &amp; HEDGES, LLP</p> <p>18          Attorneys for the Creditors Committee</p> <p>19               865 S. Figueroa Street, 10th Floor</p> <p>20               Los Angeles, California 90017</p> <p>21          BY: THOMAS O'BRIEN, ESQ. (By telephone)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1           HIGHLY CONFIDENTIAL - D. PETRIE</p> <p>2           A P P E A R A N C E S: (Cont'd.)</p> <p>3</p> <p>4           JENNER &amp; BLOCK, LLP</p> <p>5           Attorneys for the Examiner</p> <p>6               330 N. Wabash Avenue</p> <p>7               Chicago, Illinois 60611-7603</p> <p>8           BY: VINCENT LAZAR, ESQ.</p> <p>9</p> <p>10          HUGHES, HUBBARD &amp; REED, LLP</p> <p>11          Attorneys for the SIPA Trustee</p> <p>12               1775 I Street, N.W.</p> <p>13               Washington, D.C. 20006-2401</p> <p>14          BY: JOHN F. WOOD, ESQ.</p> <p>15</p> <p>16</p> <p>17          Also Present:</p> <p>18               RAJESH ANKALKOTI, Alvarez &amp; Marsal</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1           HIGHLY CONFIDENTIAL - D. PETRIE</p> <p>2           DAVID PETRIE, called as a</p> <p>3               witness, having been duly sworn by a Notary</p> <p>4               Public, was examined and testified as</p> <p>5               follows:</p> <p>6           EXAMINATION BY</p> <p>7           MR. TAMBE:</p> <p>8               Q. Good morning, Mr. Petrie. My name is</p> <p>9               Jay Tambe. I work with the law firm of Jones</p> <p>10              Day. We're special counsel to Lehman Brothers</p> <p>11              Holdings, Inc. With me is my colleague Terry</p> <p>12              McMahon.</p> <p>13              I'll let the other lawyers around the</p> <p>14              table introduce themselves to you and then we'll</p> <p>15              go through some preliminary matters. Okay?</p> <p>16              MR. WOOD: I'm John Wood from Hughes</p> <p>17              Hubbard, and we represent the SIPA Trustee.</p> <p>18              MR. ANKALKOTI: Rajesh Ankalkoti with</p> <p>19              Alvarez &amp; Marsal.</p> <p>20              MR. LAZAR: Vince Lazar. I'm</p> <p>21              representing the Examiner.</p> <p>22              MR. SHAW: And Jonathan Shaw with</p> <p>23              Boies, Schiller &amp; Flexner on behalf of</p> <p>24              Barclays.</p> <p>25              MR. TAMBE: And on the phone we have?</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p>Page 76</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>REDACTED</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>Page 77</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>REDACTED</p> <p>Q. And just cutting to the chase on the Fed repo that ultimately got replaced by the Barclays financing, Barclays provided, what, \$45 billion of financing to Lehman; is that right?</p> <p>A. In connection with the Barclays taking the Fed out of the funding of Lehman, and at the request of the Fed, we provided funding for \$45 billion for the Fed collateral for Thursday.</p> <p>Q. And that Fed collateral had a value greater than \$45 billion, correct?</p> <p>A. Yes.</p> <p>Q. A value of approximately \$50 billion, correct?</p> <p>A. I would put it below that, but yes.</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 78</p> <p>1       HIGHLY CONFIDENTIAL - D. PETRIE</p> <p>2       Q.   That was the haircut, correct?</p> <p>3       A.   The haircut would reflect the</p> <p>4       difference between the cash that's loaned and</p> <p>5       the value of the collateral at the time of the</p> <p>6       trade being executed.</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15               REDACTED</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 79</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12               REDACTED</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 Q. I'm handing you a document that was 25 previously marked as Exhibit 143B. Take a TSG Reporting - Worldwide (877) 702-9580</p> <p style="text-align: center;">REDACTED</p>	<p>1 HIGHLY CONFIDENTIAL - D. PETRIE 2 moment to look at the document. There's a 3 spreadsheet attached to it. Let me know when 4 you're done. I'll ask you some questions. 5 (Document review.) 6 A. Okay. I've read through it. 7 Q. This e-mail chain which begins at the 8 bottom of page 2 of this exhibit is from Stephen 9 King to you. Do you see that? 10 A. Yes, he I see it. 11 Q. And attaches a file which is entitled 12 "Excluded Mortgage Assets, 9/17/2008.xls," do 13 you see that? 14 A. Yes, I see it. 15 Q. If you pull up to the front, that 16 e-mail gets forwarded on to various people, and 17 then if you get to the first -- the second 18 e-mail on the first page, it's from David Aronow 19 to Rick Policke and others, do you see that? 20 A. Yes. 21 Q. And there's a CC to someone at Bank of 22 New York Mellon, do you see that? 23 A. Yes. 24 Q. In the body of the e-mail it states, 25 "Attached to the Cusips associated with the book TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 HIGHLY CONFIDENTIAL - D. PETRIE 2 that we were told on the call will be excluded 3 from the movements tomorrow. These Cusips 4 should not be part of the pledge to BONY 5 according to our earlier conversation." Do you 6 see that? 7 A. I see that. 8 Q. And this is an e-mail dated September 9 17, 2008, do you see that? 10 A. I see that. 11 Q. The movements tomorrow that were 12 referenced in that e-mail were the Fed repo 13 associated movements, correct? 14 MR. SHAW: Objection. Foundation. 15 A. I wouldn't know. 16 Q. You wouldn't know. Were you aware of 17 any Cusips being excluded from the pledge to 18 Bank of New York under the Barclays repo 19 transaction? 20 A. I was solely aware that we were to 21 take Fed collateral that was Lehman's collateral 22 that was being funded on Thursday, and by nature 23 of only wanting and being asked by the Fed to 24 take that collateral, by nature there would be 25 assets that we wouldn't be taking. TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - D. PETRIE 2 Q. Were you aware of having identified to 3 Lehman what assets should be pledged to the Fed 4 so that those would then be the only assets that 5 would be pledged to you? 6 A. No. 7 Q. What was your understanding of the 8 file that you were receiving from Stephen King, 9 "Excluded Mortgage Assets," what was that a file 10 of? 11 A. I don't know. 12 Q. Well, you received that file from 13 Stephen King. This is still on page 2 of this 14 exhibit. You then forward that to Kevin Caffrey 15 at BONY Mellon, right? 16 A. Yes. 17 Q. Why are you forwarding that to Bank of 18 New York Mellon? 19 A. It's a file that's been identified by 20 someone else of assets that aren't part of the 21 Fed repo is what I took it as. 22 Q. Did you have any discussions with 23 Stephen King about the process by which these 24 assets were identified? 25 A. No. TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 110</p> <p>1       HIGHLY CONFIDENTIAL - D. PETRIE</p> <p>2       Q. Do you have an understanding as to how</p> <p>3       these excluded mortgage assets were identified?</p> <p>4       A. No.</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13                   REDACTED</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 111</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12                   REDACTED</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p style="text-align: right;">Page 168</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">REDACTED</p> <p>MR. WOOD: I have no further questions. MR. LAZAR: Nothing. MR. SHAW: Anything from Quinn Emanuel? MR. O'BRIEN: No questions from me. MR. TAMBE: Thank you very much. (Time noted: 3:55 P.M.) oOo</p> <p style="text-align: center;">_____ DAVID PETRIE</p> <p>Subscribed and sworn to before me this day of 2009.</p> <p>_____ TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 169</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">HIGHLY CONFIDENTIAL - D. PETRIE CERTIFICATE STATE OF NEW YORK ) : ss COUNTY OF NEW YORK)</p> <p>I, Kathy S. Klepfer, a Registered Merit Reporter and Notary Public within and for the State of New York, do hereby certify:</p> <p>That DAVID PETRIE, the witness whose deposition is herein before set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.</p> <p>I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.</p> <p>I further certify that neither the deponent nor a party requested a review of the transcript pursuant to Federal Rule of Civil Procedure 30(e) before the deposition was completed.</p> <p>In witness whereof, I have hereunto set my hand this 26th day of August, 2009.</p> <p style="text-align: center;">_____ TSG Reporting - Worldwide (877) 702-9580</p>

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